

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2497 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

HASMUKHLAL N. BHATT

Versus

STATE OF GUJARAT

Appearance:

MR JITENDRA M PATEL for Petitioner
M/S PATEL ADVOCATES for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 04/04/2000

ORAL JUDGEMENT

None appears for the petitioner. I have heard
learned AGP Mrs. B.R. Gajjar, instructed by learned Govt.
Solicitor Mr. Hasmukh Patel on behalf of the respondent
State.

Present petition has been filed by the petitioner for quashing the order for recovery of a sum of Rs.11,576/- towards demurrage charges incurred by the Government. Learned AGP submitted that, the petitioner at the relevant time was holding the post of Stores Keeper and even when intimation regarding arrival of two machineries/ equipments were received by him, he did not bring it to the notice of the authority for taking delivery of the machineries from the cargo section of Indian Airlines. As a result there had been delay in taking delivery of the machineries from the Airlines. Because of the delay they have claimed demurrage charges from the Government. Government had to pay a sum of Rs.11,576/- towards demurrage charges to the Airlines and after payment of the same, the machineries were received.

Learned AGP submitted that, because of the negligence on the part of the petitioner, Government suffered loss of Rs.11,576/- and since the Government suffered aforesaid sum because of the negligence of the petitioner, he is liable to compensate to the Government to the extent of Rs.11,576/-.

Learned AGP also submitted that, the petitioner was asked to show cause as to why the said amount of Rs. 11,576/- may not be realised from his pay. The petitioner has submitted his reply. The authority after considering the reply of the petitioner and after hearing him, passed an order for recovery of a sum of Rs.11,576/- from the salary of the petitioner.

Learned AGP submitted that, no irregularity has been committed by the Government authority in passing the order for realisation of sum of Rs.11,576/- from the petitioner, as the Government had to suffer this loss because of the negligence of the petitioner. It is also submitted by learned AGP that, due notice has been given to the petitioner to explain why the amount shall not be realised from him.

Since the Government authority was satisfied that the Government had suffered financial loss because of the negligence of the petitioner, I am of the view that the Government is competent to realise the amount from the petitioner and in doing so, it appears that the petitioner was given opportunity to explain the conduct and thereafter the order has been passed for realisation of Rs.11,576/-. I do not find any illegality in the order passed by the Government for realisation of Rs.11,576/- from the pay of the petitioner. Accordingly

I am of the view that there is no merit in the petition. This petition is accordingly dismissed. Ad interim order was passed on 20-3-1990 for staying the order of the Government regarding realisation of Rs.11,576/- from the petitioner on furnishing an undertaking. Accordingly the petitioner has filed undertaking and the order regarding recovery has been stayed. Now the petition having been dismissed, the State respondent may realise the amount from the petitioner, in accordance with the order passed by the Government authority. The petition is accordingly dismissed. The ad interim order passed by this Court dated 20-3-1990 is vacated. Rule discharged. However, I make no order as to costs.

Dt: 4-4-2000

(P.K. Sarkar, J)

/vgn